

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

JUSTIN PULLIAM,

*Plaintiff,*

v.

Civil Action No. 4:22-cv-4210

COUNTY OF FORT BEND, TEXAS;  
SHERIFF ERIC FAGAN, in his  
individual capacity; OFFICER ROBERT  
HARTFIELD, in his individual capacity;  
OFFICER JONATHAN GARCIA, in his  
individual capacity; OFFICER TAYLOR  
ROLLINS, in his individual capacity;  
and OFFICER RICKY RODRIGUEZ, in  
his individual capacity,

*Defendants.*

**UNOPPOSED MOTION TO RESET MOTION TO DISMISS DEADLINES**

Based on the Rule 26(f) conference with Defendants and their consent, Plaintiff respectfully requests that the Court reset the deadlines for Rule 12 motions to allow for a single set of briefing on Plaintiff's amended complaint, ECF 33, which is being filed concurrently with this motion. The reasons and proposed briefing schedule are set forth below.

1. Plaintiff filed the Complaint on December 5, 2022. ECF 1. The Complaint brought federal constitutional claims against Defendant Fort Bend County and

Defendant law-enforcement officers in their individual capacities.

2. Defendants filed motions to dismiss between January 4, 2023 and January 25, 2023. ECF 15, 19, 21, 23, 26, 27.
3. In the interest of judicial efficiency, on January 26, 2023, the Court granted Plaintiff's unopposed motion to consolidate briefing on the pending motions to dismiss. ECF 29.
4. On February 3, 2023, counsel held their rule 26(f) conference. It was a productive meeting and counsel worked well together. The parties filed their joint 26(f) report on February 6, 2023. ECF 30.
5. During the 26(f) conference, Plaintiff let Defendants know that he intends to file an amended complaint under Rule 15(a)(1) to add a Fourth Amendment claim and to address certain issues raised in the pending Rule 12 motions. That amended complaint has now been filed. ECF 33.
6. In the interest of judicial efficiency, the parties agreed that it makes the most sense for Plaintiff to file the amended complaint, Defendants file a single motion to dismiss, Plaintiff in turn files one response, and Defendants file their single reply.
7. The amended complaint and the parties briefing plan moot the pending motions to dismiss and Plaintiff's current February 14, 2023 response deadline.

8. Therefore, Plaintiff, with Defendants' consent, respectfully asks this Court to recognize the pending Rule 12 motions as moot, set a new Rule 12 motion deadline of March 13, 2023 for Defendants, a response deadline of April 3, 2023, and a reply deadline of April 17, 2023.
9. The parties also propose that the new briefing schedule incorporate the page limits of the Court's January 26, 2023 Order: Defendants' Rule 12 motion shall not exceed 40 pages; Plaintiff's response shall not exceed 40 pages; and Defendants' reply shall not exceed 25 pages.

Dated: February 13, 2023

Respectfully submitted,

/s/ Victoria Clark

Victoria Clark, Attorney-in-Charge

Texas Bar No. 24109731

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Jeffrey Rowes\*, of counsel

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**INSTITUTE FOR JUSTICE**

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*Attorneys for Plaintiff*

*\*Admitted pro hac vice*

### **CERTIFICATE OF CONFERENCE**

I hereby certify that on February 3rd, 2023, I conferred via telephone with counsel of record for defendants. Counsel indicated his consent to this motion.

/s/ Victoria Clark  
Victoria Clark, Attorney-in-Charge  
*Attorney for Plaintiff*

### **CERTIFICATE OF SERVICE**

I hereby certify that on February 13, 2023, I electronically filed the foregoing motion with the Clerk of Court using the CM/ECF system and served by the CM/ECF system to all counsel of record.

/s/ Victoria Clark  
Victoria Clark, Attorney-in-Charge  
*Attorney for Plaintiff*